

**Village of Indian Head Park  
201 Acacia Drive  
Indian Head Park, IL 60525**

**MINUTES  
VILLAGE OF INDIAN HEAD PARK  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARINGS**

*“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”*

**Tuesday, June 23, 2014**

**7:30 P.M.**

**CALL TO ORDER – CHAIRMAN DENNIS SCHERMERHORN**

A public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, June 23, 2014, at the Municipal Facility, 201 Acacia Drive to consider two zoning petitions. Zoning Petition #180 was presented to the Commission by Joe Leonard of 11216 Hiawatha Lane and Petition #181 presented by Maritza and Brian Mitchell of 6111 Glenbrook Lane. The meeting was convened at 7:30 p.m. by Chairman Dennis Schermerhorn.

**ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):**

Chairman Dennis Schermerhorn  
Commissioner Diane Andrews  
Commissioner Noreen Costelloe  
Commissioner Timothy Kyzivat  
Commissioner Earl O'Malley  
Commissioner Robert Tantillo  
Commissioner Jack Yelnick

### **PLEDGE OF ALLEGIANCE TO THE FLAG**

Chairman Dennis Schermerhorn and the Planning and Zoning Commission members recited the Pledge of Allegiance to the Flag as follows: ***"I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all"***.

### **ZONING AGENDA ITEMS: (discussion and a possible vote may take place)**

#### **PUBLIC HEARINGS HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)**

- 1. Petition #180 - 11216 Hiawatha Lane** - A petition for a rear yard and side yard variation to allow for the construction of an exterior fireplace, raised deck with seatwall and a pavilion/pergola that encroaches into the rear yard setback.

Chairman Schermerhorn noted a zoning petition was filed with the Village by Joseph and Rebecca Leonard. The following exhibits were presented and reviewed by the Commission concerning this zoning petition: (1) a zoning petition form dated May 23, 2014 submitted by Jr's Landscaping on behalf of the property owners, (2) copy of preliminary design plans and zoning review dated May 16., 2014; (3) a memo to public works regarding posting of the zoning sign on the subject property; (4) certificate of publication in the Des Plaines Valley Newspaper on June 5, 2014; (5) plat of survey of the property dated July 16, 2008; (6) a copy of the letter that was sent to the adjacent property owners; (7) copy of the plan review report dated May 16, 2014 regarding the proposed project; (8) a list of adjacent property owners.

Chairman Schermerhorn noted a petition was presented by Mr. Joseph Leonard accompanied by his contractors, a detailed discussion ensued describing the project, the property enhancements and the planned incursions into the setback restrictions imposed by the code. Mr. Leonard received input from the neighbors by circulating his own letter of explanation of the project and seeking a written expression of support. There were 8 support responses.

The neighbor to the East presented an objection based on creating a precedent to setback incursions as well as reiterating long standing property line and irrigation disputes.

Two specific variances were requested: (1) to allow a 2 foot incursion of a pergola roof overhang into the side yard setback to the East. There have been routine side setback reliefs granted to the properties on Hiawatha. This is not a structural incursion but an overhang. There were no specific objections to this incursion, even by the East neighbor; and (2) to allow for a rear yard encroachment of 32' to accommodate the construction of a seat wall, an outdoor fireplace and a gazebo structure. After some discussion the Commission acknowledged the pending report of the Commission to the Board where the plight of the Hiawatha properties was addressed. In that report, the Commission recognized that the narrow but deep lots on Hiawatha required some zoning accommodation and suggested a rear yard setback change to the existing ordinance to provide a rear yard setback of 40% of the depth of the property or 100 feet, whichever is less. The Commission took note of that recommendation in adopting its recommendation to the Village Board.

Accordingly, upon a review of the findings of fact the Commission voted to recommend to the Village Board that the motion presented by the Petitioner be approved with the following conditions:

1. The gazebo shall remain un-enclosed
2. All rain water run-off shall be contained within the property
3. The plans as presented by the petition would be adjusted to have a 100' rear yard, not 99' as indicated.
4. Approval of this petition is in recognition of the pending recommendation of the Commission to the Board to adjust the code language relating to rear yard setbacks which, if adopted by this board would not create a rear yard variance. Due to the pending status of this recommendation, approval of this petition should not

be construed as to create a precedent if the Board should later rule against the Commission code change recommendation.

Chairman Schermerhorn read a letter into the record from Joseph Leonard dated June 11, 2104 that was circulated to neighbors on Hiawatha Lane detailing the scope of the project and nature of the variance request (reconstruction of an existing rear yard deck, construction of a rear yard pavilion, outdoor grill/fireplace and pergola). He added that Mr. Leonard also pointed out the uniqueness of some lots on Hiawatha Lane that are sixty-six feet (66') wide and many lots with new construction have required a variance in the past. Chairman Schermerhorn further noted that Mr. Leonard received a letter from Joe Lyons, of the Pleasantview Fire Protection District regarding the proposed plans for the exterior fireplace and there are no objections if the requirements of the Fire Department are followed. Chairman Schermerhorn pointed out the current lot depth is 330', the rear yard variance will still allow for a 99' setback or 30% of the total lot depth, the owner is seeking a side yard variance on the east side of a maximum 2' from the 12' minimum to construct an outdoor grill area and pergola, outdoor fireplace and pavilion and the proposed plans include the planting of trees.

Joe Leonard, also provided color photographs to the Commission showing the rear yard of his property. He pointed out his neighbor Ted Zeglen signed a letter also in support of the petition and proposal for a variance, he thanked Commission members who also visited the property to see the property prior to the hearing process. Mr. Leonard stated his home was new construction when he bought the property about four to five years ago, the patio areas have settled and needs to be reconstructed, no existing trees are being removed in connection with the project, he planted an entire row of Arbor Vitae along the east property line, the proposed pavilion will have gutters running into the ground to prevent water run-off and there will be no illumination to neighboring properties. Mr. Leonard stated all other aspects of the project are in compliance with Village codes and possibly the Commission could consider changing zoning requirements for lots on Hiawatha Lane to permit other homeowners to do more with their properties. Mr. Leonard stated he reviewed previous zoning Commission minutes and Commission Members have discussed reviewing zoning requirements for Hiawatha Lane lots and updates to Title 17, Zoning to promote building.

Chairman Schermerhorn asked if the side yard variance of 2' is needed for the pergola overhang. Jim Rose, from Jr's Landscaping stated the pergola would be built within the proper setback and the posts of the pergola overhang is 2'. Mr. Leonard noted the outdoor kitchen is only for grilling purposes with counter space on each side and it will not have refrigeration or sink space. Commissioner Andrews asked is there would be screening around the fireplace area. Mr. Leonard stated the fireplace area will not be enclosed. Commissioner Andrews asked if the drainage from the lot flows to the west side of the lot. Mr. Leonard stated, yes.

Chairman Schermerhorn stated the Commission has spent several months in trying to review the existing zoning code to collectively consider possible updates to the Title 17, Zoning and the construction of new homes and particularly those lots on Hiawatha Lane with narrow lots and many older homes in that area were built before the zoning code was enacted. He noted some setbacks for other properties were established for larger lots. Chairman Schermerhorn stated the Commission will make a recommendation to the Village Board with updates to the code and those changes have not yet been enacted.

Mr. Leonard stated he sent a letter to every household about the proposed zoning petition and he did not receive one letter that was opposed to the variances.

David Walent, of Hiawatha Lane, stated he is the immediate neighbor to the east of the Leonard property. He noted when he first moved to the community he wanted to put in a deck and a hot tub in the rear yard and at the time there were some issues but he adhered to the code and also followed the code when he put an addition on his home. Mr. Walent stated he has concerns with setting precedent with zoning changes, the project may obstruct his views, when the original deck was built it did not comply with the code at the time and the Village Inspector was out and it needed to be revised to meet the code and there is no case for a hardship. Mr. Walent submitted a list of concerns to the Commission including a boundary dispute between the properties, that drainage issues would be addressed with a swale and trees that were planted on the property line.

Chairman Schermerhorn stated the Commission only addresses zoning issues and is not involved in boundary disputes between property owners and survey provided by Mr. Leonard was prepared by a professional land surveyor.

Jim Rose from Jr's Landscaping stated he does a lot of drainage work, French drains and swales in the City of Naperville as well as other communities and he will complete the work according to the plan. The Commission members discussed making it a condition or granting the variance that all water will be contained within the property. Mr. Leonard stated he planted Arbor Vitae and mulch along the property to enhance the boundary, he only wants to work together with everyone, he cares about his neighbors and is considerate and there has been no opposition to the proposed plans. Mr. Leonard stated Mr. Walent mentioned he follows the zoning regulations but has an above ground pool in his yard that does not comply.

After reviewing the findings of fact and discussion by the Commission members, Commissioner O'Malley moved, seconded by Commissioner Yelnick, to accept the petition as presented. Carried by unanimous voice vote (7/0/0).

Chairman Schermerhorn entertained a motion to submit a recommendation to the Village Board to accept the petition as presented for approval. Commissioner O'Malley moved, seconded by Commissioner Kyzivat, to submit a recommendation to the Village Board for approval of the variations requested subject to the following conditions: (1) that the proposed pavilion will remain open and; (2) that there is no water run-off to adjacent properties. unanimous roll call vote (7/0/0).

*Aye: Chairman Schermerhorn*

*Commissioners: Andrews, Costelloe, Kyzivat, O'Malley, Tantillo, Yelnick*

*Nay: None*

*Absent: None*

Chairman Schermerhorn stated that a report will be presented to the Village Board at the next Board meeting and a recommendation will be provided consistent with the petition submitted to the Commission.

**2. Petition #181 – 6111 Glenbrook Lane** - A petition for a rear yard variance and an amendment to the Ashbrook Planned Unit Development (P.U.D.) to allow for the construction of a new deck that encroaches into the rear yard setback of the property located at 6111 Glenbrook Lane.

Chairman Schermerhorn noted a zoning petition was filed with the Village by Mr. & Mrs. Brian Mitchell. The following exhibits were presented and reviewed by the Commission concerning this zoning petition: (1) a zoning petition form dated May 28, 2014 submitted by Homecrafters LLC on behalf of the property owners, (2) copy of preliminary design plans; (3) a memo to public works regarding posting of the zoning sign on the subject property; (4) certificate of publication in the Des Plaines Valley Newspaper on June 5, 2014; (5) plat of survey of the property dated November 26, 2013; (6) a copy of the letter that was sent to the adjacent property owners; (7) copy of the plan review report dated May 16, 2014 regarding the proposed project; (8) a list of adjacent property owners.

Chairman Schermerhorn noted a petition was presented by Mr. and Mrs. Brian Mitchell accompanied by their contractor. A detailed discussion ensued describing the project, the property enhancements and the planned incursions into the setback restrictions imposed by the code and the Planned Unit Development (PUD). He cited the need for this addition to allow space on the deck for his family of five to all gather as well as stair access to the lower level to which the children access the community playground. The variance requested is for a 4 1/2' incursion into the rear yard setback. There have been several similar variances and amendments granted in the past for similar requests.

Brian Mitchell stated he and his family recently moved to Ashbrook Development from Hiawatha Lane, the home has a walk-out basement and there is a small deck with no stairs down to grade. Mr. Mitchell stated there is a community park in Ashbrook his children enjoy and a new larger deck with stairs down to grade would be easier to access from the house. Mrs. Mitchell stated the proposed plan was discussed with neighbors and there were no objections to the plan.

The Commission members discussed that other property owners have received variances for similar requests and there are some decks with stairs down to grade.

Chairman Schermerhorn stated there have been four rear yard variances granted in Ashbrook ranging from five to seven feet. Therefore, granting the variance would not be setting a precedent.

Accordingly, upon a review of the finding of facts and an acknowledgement that the petitioner met his burden of proof for PUD amendment, the Commission voted to recommend to this Board that the motion presented by the Petitioner be approved with the following condition: (1) the deck shall remain un-enclosed.

Commissioner Yelnick moved, seconded by Commissioner Tantillo , to accept the petition as presented. Carried by unanimous voice vote (7/0/0).

Chairman Schermerhorn entertained a motion to submit a recommendation to the Village Board to accept the petition as presented for approval. Commissioner Costelloe moved, seconded by Commissioner Andrews, to submit a recommendation to the Village Board for approval of the variations requested subject to the following conditions: (1) that the deck remain open. Carried by unanimous roll call vote (7/0/0).

*Aye: Chairman Schermerhorn*

*Commissioners: Andrews, Costelloe, Kyzivat, O'Malley, Tantillo, Yelnick*

*Nay: None*

*Absent: None*

Chairman Schermerhorn stated that a report will be presented to the Village Board at the next Board meeting and a recommendation will be provided consistent with the petition submitted to the Commission.

#### **PUBLIC COMMENTS FROM THE AUDIENCE**

There were no public comments from the audience.

#### **APPROVAL OF PLANNING AND ZONING COMMISSION MEETING MINUTES**

Minutes of the May 6, 2014 Meeting



PZC Minutes  
June 23, 2014

After review of the May 6, 2014 minutes, Commissioner Andrews moved, seconded by Commissioner O'Malley, to approve the minutes, as presented. Carried by unanimous voice vote (7/0/0).

## **ADJOURNMENT**

There being no further business to discuss before the Commission, Commissioner Andrews moved, seconded by Commissioner Tantillo, to adjourn the meeting at 8:40 p.m. Carried by unanimous voice vote (7/0/0).

Minutes prepared and submitted by,  
Kathy Leach, Recording Secretary  
Planning and Zoning Commission